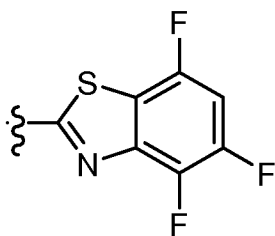


Claims 1-5, 7, 12-14, 16, 18, 20-24, 26, 35-36, and 39 are pending. However, none of the three groups listed in the Restriction encompasses claims 16, 18, 20-24, and 39. These claims are all directed to methods of using {3-[(4,5,7-trifluoro-1,3-benzothiazol-2-yl)methyl]-1*H*-indol-1-yl}acetic acid, or to using a salt or hydrate thereof. Applicant is entitled to choose a currently pending claim(s) for prosecution but because claims 16, 18, 20-24, and 39 are not within any group, those claims cannot be captured by a response to the current restriction. These claims are all method of use claims and, perhaps, could properly be included in Group II. Correction of the Restriction to reflect all the pending claims, and reissuance thereof, is requested.

Group II appears to be drawn to methods of using a particular hydrate but claim 4 is not limited to any particular hydrate. Does Group II include claim 4 in its entirety? If so, other method claims (see above) would fit within Group II. Clarification is requested.

Somewhat similarly, claim 35 is directed to a process for preparing a pharmaceutical composition but it is included in Group II which is said to be drawn to a method of preparing a particular hydrate. Is Group III intended to include both of claims 35 and 36?

With respect to the rationale for the Restriction, Applicant notes that the Examiner has pointed to U.S. Published Patent Application No. 20040116488A1 (Jennings et al.) as the reason for the lack of unity conclusion. Applicant does not understand this rationale, in particular because the facts upon which it is based appear to be incorrect. The Examiner is correct in noting that the claims require {3-[(4,5,7-trifluoro-1,3-benzothiazol-2-yl)methyl]-1*H*-indol-1-yl}acetic acid. The Examiner directs the reader's attention to Jennings et al., Formula I of claim 1 at page 14, and states that this "corresponds to applicant's instantly claimed compound." To the contrary, this formula does not correspond to the claimed compound. The claimed compound requires a 4,5,7-trifluoro-1,3-benzothiazol-2-yl group, which can be represented by the following structural formula:



The disclosure pointed to by the Examiner appears to lack any mention of a benzothiazolyl group. In fact, there seems to be no express mention of a benzothiazolyl group anywhere in Jennings et al. Jennings et al. does include, within the definitions of R₅ and R₆, benzo[b]furan-2-yl, benzo[b]thien-2-yl, benzo[1,3]dioxol-5-yl, but none of these is a benzothiazolyl group. As a result,

the claimed compound is not within the express disclosure of Jennings et al., and Applicants do not understand the Examiner's conclusion that unity of invention is lacking. Clarification or correction is respectfully requested.

The Applicants invite the Examiner to contact the Applicants' undersigned representative at (312) 913-2136 if the Examiner believes that this would expedite prosecution of this application.

Respectfully submitted,

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